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Jaime Bauer
DEQ Piedmont Regional Office
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Re: Comments on Omega Protein VPDES Wastewater Permit Renewal, VA0003867

Dear Ms. Bauer:

The Southern Environmental Law Center ("SELC") welcomes the opportunity to comment on Omega Protein's application for reissuance of a Virginia Pollutant Discharge Elimination System ("VPDES") wastewater permit for its Reedville, VA facility. We have reviewed the draft permit and fact sheet, and have the following comments.

We commend Omega Protein for its recent efforts to reduce the wastewater discharged from its menhaden fishing and processing operations in and alongside of the Chesapeake Bay, and the DEQ for its role in these improvements. Both of its own initiative and in response to DEQ oversight, Omega Protein has invested significant resources to upgrade its operations and reduce its impact on the health of the Chesapeake Bay.

Nevertheless, in light of the combined efforts of federal agencies and the Bay states to develop a comprehensive Bay Total Maximum Daily Load and state Watershed Implementation Plans, it is critical that future nutrient reductions not be undermined by unregulated discharges. Based on company records and statements that SELC has viewed, as recently as the 2008 fishing season Omega's fishing vessels were discharging enormous quantities of nutrient-rich "bail water" or "bailing water" directly into the Bay, despite statements to the contrary in the 2005 fact sheet for its current VPDES permit

("Bailwater is creekwater used to transfer fish off the boat hydraulically to shore at the dock. The bailwater goes through the process so what water is not evaporated is discharged through outfall 001."). The draft fact sheet (page 2 of 15) accompanying the new draft permit more accurately explains that bail water is a combination of residual refrigeration water, fresh creek water, and "liquids given up by the fish during the transfer process" (presumably nutrient-rich blood and waste products), and that it is now taken to the Atlantic Ocean for discharge as allowed by federal law.

Our October 2009 letter to EPA and DEQ summarized the company data, indicating that between forty to sixty loads of approximately 25,000 gallons of bailing water were discharged per month during the fishing season directly into the Bay. This bail water had a BOD5 ranging between 37,500 and 150,000 mg/L (for comparison, the nutrient content of raw sewage is generally 200 mg/L) and was discharged to the Bay without specific authorization in the VPDES permit and without any monitoring or reporting. By contrast, discharge of the far weaker "refrigeration water" used to cool the fish prior to offloading was specifically authorized in the 2005 VPDES permit and was required to be monitored at least twice a month.

While reviewing agency files earlier this year, we were gratified to see that Omega Protein has discontinued this seemingly longstanding practice of discharging bailing water to the middle of the Bay. Now, according to a company memo dated January 12, 2011 in DEQ files, Omega is transporting it to the Atlantic Ocean for disposal in a manner allowed by the Marine Protection, Research, and Sanctuaries Act ("MPRSA"). This is reflected in the draft fact sheet (page 2 of 15), which also states that Omega intends to install a waste heat evaporator system prior to the 2012 fishing season to process *all* bail water. The clean condensate resulting from this process will be used as boiler feed water, and Omega states that the dirty condensate "is currently treated in the treatment train so there is no expected increase in load to the treatment train" (page 2 of 15).

To help ensure that the past problems with bailing water do not continue to negatively impact the health of the Bay, we recommend that DEQ make the following modifications to the fact sheet and draft permit before final approval:

- Explicitly state that the discharge of untreated bailing water into the Chesapeake Bay and its tributaries is *not* permitted: Currently, the only mention of bail water in the draft permit is in Part I.B.2.a: "Refrigeration water does not include bail water . . . ." This implies but does not clearly state that the discharge of bailing water is not permitted. The fact sheet mentions bail water on page 2 of 15, describing what it is, how it is currently dealt with (dumping in the Atlantic), and future plans to install a treatment plant. Nowhere does either document specify that bail water, as defined in the fact sheet, may not be discharged in the Bay. A statement should be added to the permit to the effect that "until the new treatment system is installed, the only currently authorized method of discharge of bail water is into the Atlantic Ocean in accordance with the MPRSA."

- Include a short statement on the history of Omega's treatment of bailing water: To emphasize the importance of proper treatment of nutrient-rich bail water in the future, we recommend adding a short statement referencing the history described above to the fact sheet.

- Require recordkeeping of bailing water discharges until the new treatment system is in place (whether or not actually installed by the 2012 fishing season): The current draft permit requires Omega to maintain a refrigeration water discharge vessel log, which lists the date of every refrigeration discharge and the estimated volume of discharge. Given the prior unauthorized discharges of bailing water, the new permit should also require Omega to maintain a similar log with records all of its bail water discharges (whether in the Atlantic Ocean or elsewhere) that is available for DEQ inspection. While monitoring and sampling of the kind required for refrigeration water discharges directly into the Bay might not be necessary, a logbook would not be burdensome and would enable DEQ to provide a minimum level of oversight over Omega's treatment of bail water until the new treatment system is installed.

- Clarify the visibility requirement for refrigeration water discharge: The fact sheet and draft permit include conflicting requirements on the permissible visibility of refrigeration water discharge. The fact sheet (page 2 of 15) requires that refrigeration water discharge into the Bay be made "at a rate such that the discharge is not visible." By contrast, Part I.B.2.c of the draft permit imposes a potentially more lenient requirement that discharge be made "at a rate that the visibility of the discharge plume is minimized." The language in the draft permit should be changed to reflect the standard in the fact sheet.

Thank you for the opportunity to submit these comments.

Sincerely,

Rick Parrish

Richard A. Parrish
Senior Attorney

cc: EPA Region 3